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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/739,431	12/18/2003	Lyle V. Lehman	HES 2003-IP-009560U1	9268
29920	7590	10/04/2005	EXAMINER	
JOHN W. WUSTENBERG P.O. BOX 1431 DUNCAN, OK 73536			KINNEY, NGOC	
			ART UNIT	PAPER NUMBER
			3672	
DATE MAILED: 10/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/739,431

Applicant(s)

LEHMAN, LYLE V.

Examiner

Ngoc Kinney

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/18/05 & 12/18/03 *NM*
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: In paragraph 0030, line 8, the term "shear" appears twice. One of the terms should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 10-17, 20-26, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Whiteley et al. (US Patent 6,006,838). Whiteley et al. disclose an apparatus and method for selectively stimulating a plurality of producing zone comprising a plurality of jetting modules 5, 10, 15, 20, and a shifting sleeve 22 movable from a one position over the jet passageways to another position by way of a plug.

Regarding claims 3, 5, 7, 8, 13, 14, 16, 17, 22, 23, 25, and 26: Whiteley et al. disclose that pumping successive plugs to shift the sleeve from one position to another (column 2, line 28) and that each successive module in the assembly is adapted to receive a larger plug (column 5, line 1).

Regarding claims 10, 20 and 28: Whiteley et al. disclose that each module includes a plurality of interchangeable jetting nozzles 24 (column 4, line 45).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9, 18, 19, and 27 rejected under 35 U.S.C. 103(a) as being unpatentable over Whiteley et al. in view of Robichaux (US Patent No. 3,912,173). Whiteley shows all the limitation of the claimed invention, except it does not disclose that the lowermost jetting module is without a sleeve. Robichaux discloses of a formation-flushing tool comprising a plurality of fluid jetting nozzle sections, where a plug 56 is used to selectively stopping fluid from jetting into the wellbore. It would have been considered obvious to one of ordinary skill in the art at the time of the invention was made to have modified the apparatus for selectively stimulating a plurality of producing zone taught by Whiteley et al. to use just a plug to block fluid in the lowermost section from jetting out from the tool as taught by Robichaux. Furthermore, it's unnecessary to include a sleeve to block the fluid flow in the lowermost module, since the jetting is designed to be in a sequential order and that the fluid be jetting out of the lowermost most module first during the fracturing process. The elimination of the sleeve in the lowermost module would obviously be a sound economical choice.

Conclusion

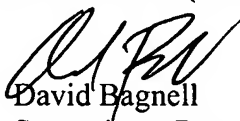
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hall et al. and Austin et al. show similar elements to those of the present invention.

Art Unit: 3672

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc Kinney whose telephone number is 571-272-1615. The examiner can normally be reached on 9-6 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Bagnell
Supervisory Patent Examiner
Art Unit 3672

nmk